UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

THE UNITED STATES OF AMERICA, *EX REL*. JESSE POLANSKY, M.D., M.P.H., Plaintiffs, v. EXECUTIVE HEALTH RESOURCES, INC., Defendant.	CASE NO. 12-cv-04239

MOTION OF STRADLEY RONON STEVENS & YOUNG, LLP
TO WITHDRAW AS COUNSEL FOR
PLAINTIFF RELATOR JESSE POLANSKY, M.D., M.P.H.

Pursuant to Rule 5.1 of the Local Rules of Civil Practice of the United States District Court for the Eastern District of Pennsylvania ("Local Rules"), co-counsel for Plaintiff Relator Jesse Polansky, M.D., M.P.H. ("Dr. Polansky"), Stradley Ronon Stevens & Young, LLP and its attorneys Michael J. Engle and Corey S. D. Norcross (collectively, "Stradley Ronon") move to withdraw as counsel for Dr. Polansky for the reasons set forth below:

1. Dr. Polansky instituted this action against, *inter alia*, defendant Executive Health Resources, Inc. ("EHR") alleging that EHR participated in a nationwide scheme to defraud Medicare and Medicaid by improperly certifying certain outpatient cases for hospital inpatient admission and payment. (Dkt. 101).

2. EHR moved to dismiss Dr. Polansky's Second Amended Complaint, which this Court granted in part and denied in part on May 10, 2016. (Dkt. 52; 93, 103).

3. EHR filed an Answer to the Second Amended Complaint on December 12, 2016. (Dkt. 120).

4. On April 7, 2017, Dr. Polansky filed a Notice of Substitution of Counsel, requesting this Court withdraw the appearances of Gary L. Azorsky, Esquire, Jeanne A. Markey, Esquire, and Casey M. Preston, Esquire of Cohen Milstein Sellers & Toll PLLC and enter the appearance of Stradley Ronon in their place. (Dkt. 124).

5. Stradley Ronon was retained as local counsel, as Dr. Polansky had already engaged new lead counsel from the law firms of Winston & Strawn, LLP and Fish & Richardson P.C.

6. Shortly thereafter, Stradley Ronon learned of a concurrent conflict of interest that mandates its withdrawal as counsel.

7. Despite following its internal conflict check procedures, at the time Stradley Ronon agreed to represent Dr. Polansky it was unaware that EHR had a tangential affiliation with one of Stradley Ronon's institutional clients.

8. Pursuant to general principles of professional conduct, this conflict presents grounds for counsel's withdrawal from representation. *See* American Bar Association's Model Rules of Professional Conduct ("Model Rules"), Rule 1.16(a)(1), Comment 1 and Rule 1.7(a) *see also* Pennsylvania Rules of Professional Conduct ("Pennsylvania Rules") Rule 1.7(a).

9. Accordingly, Stradley Ronon now seeks to withdraw as counsel for Dr. Polansky.

10. The Third Circuit, rejecting the rigid, multi-factor tests on which some courts rely, explained that "[r]ules regarding attorney withdrawal are necessarily general because of the context-laden nature of such determinations." *Ohntrup v. Makina Ve Kimya Endustrisi Kurumu*, 760 F.3d 290, 295 (3d Cir. 2014).

11. This Court has granted motions to withdraw when there is a concurrent conflict of interest. In fact, this Court has ordered counsel to withdraw in such circumstances. *See e.g.*

Argue v. David Davis Enterprises, Inc., No. CIV.A. 02-9521, 2004 WL 2480836, at *3 (E.D. Pa. Nov. 4, 2004).

12. Stradley Ronon immediately notified Dr. Polansky of this conflict on April 11, 2017 and its need to withdraw.

13. Dr. Polansky has consented to Stradley Ronon's request to withdraw, and has engaged new local counsel from the law firm of Conrad O'Brien who have entered their appearance in this matter on April 26, 2017.

14. Moreover, discovery has not yet begun and this Court has not yet established a scheduling order. Time, therefore, is not of the essence and Stradley Ronon's withdrawal will not prejudice the parties' ability to litigate this matter.

WHEREFORE, Stradley Ronon respectfully requests permission to withdraw as counsel for Plaintiff Relator Jesse Polansky, M.D., M.P.H.

/s/ Michael J. Engle
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Dated: April 26, 2017

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ORDER

AND NOW, this _____ day of ________, 2017, following consideration of the foregoing Motion of Stradley Ronon Stevens & Young, LLP to Withdraw as Counsel for Plaintiff Relator Jesse Polansky, M.D., M.P.H., and any response thereto, it is hereby ORDERED that said Motion is GRANTED.

____
THOMAS N. O'NEILL, JR., J.

CERTIFICATE OF SERVICE

I, Michael J. Engle, hereby certify that on April 26, 2017, I caused a true and correct copy of the foregoing to be served electronically via the Court's ECF system and email upon the following:

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